

**WALLACE  
& NORDAN LLP**  
ATTORNEYS AT LAW

3737 GLENWOOD AVENUE, SUITE 260  
RALEIGH, NORTH CAROLINA 27612

JOHN R. WALLACE  
RICHARD P. NORDAN

MATT CALABRIA  
LAUREN TRUSTMAN NOYES

November 29, 2018

Mr. J. Anthony Penry  
Chairman  
NC State Board of Elections  
430 N. Salisbury St.  
Raleigh, NC 27603-5918

**VIA EMAIL & HAND DELIVERY**

**Re: Further Investigation of 9<sup>th</sup> Congressional District**

Dear Mr. Penry

I write to you on behalf of my client, the North Carolina Democratic Party, with regard to election-related matters in Bladen County and Robeson County in the 9<sup>th</sup> Congressional District.

The State Board of Elections is authorized by statute to “take any other action necessary to assure that an election is determined without taint of fraud or corruption and without irregularities that may have changed the result of an election.” NCGSA § 163A-1180. On Tuesday, November 27, the State Board properly exercised this authority to delay certification of the results in the Ninth Congressional District. As Board Member Joshua Malcolm explained, “I’m very familiar with the unfortunate activities that have happened in my part of the state. And I am not going to turn a blind eye to what took place to the best of my understanding, which has been ongoing for a number of years, and which has been repeatedly referred to the United States attorney and the district attorneys to clean up. Those things have not taken place.”

Since Tuesday’s announcement, more information has emerged to cast further doubt as to the basic fairness of the election. In 2016, on request from the Republican Party, the State Board granted a public evidentiary hearing to examine irregularities in Bladen County *before* certification. The matter was referred to law enforcement for investigation.

Today, the North Carolina Democratic Party respectfully requests that the State Board, once again, grant a public evidentiary hearing to examine the “unfortunate activities” that Mr. Malcolm referenced and to determine whether these “[i]rregularities or improprieties occurred to such an extent that they taint the results of the entire election and cast doubt on its fairness.” NCGSA § 163A-1181(a)(4). Basic fairness and equity demands that such a hearing be held before certification, just as it was in 2016. After pulling the fire alarm on Tuesday, the State

Board cannot in good conscience certify the election three days later, when so much smoke continues to hang over this election.

Two days following the Board's announcement, the public remains largely in the dark about the state government's ongoing investigation into what happened in Bladen and Robeson Counties.

The press has reported the following regarding Bladen County:

The chief investigator for the North Carolina Board of Elections took absentee by mail ballot request forms and their return envelopes from Bladen County immediately after the Nov. 6 election, according to the chair of the county's board of elections. Bobby Ludlum, chair of the Bladen County Board of Elections, told WFAE Wednesday that the board's chief investigator, Joan Fleming, came to Elizabethtown to get the records during the week of the election.

"She was here the day after, or around that time," said Ludlum, a Republican who chairs the county's board. "I've heard rumors and allegations (about what they are looking for) but they haven't said anything."

<http://www.wfae.org/post/nc-elections-investigator-seized-bladen-county-absentee-ballot-forms#stream/0>.

And the press has reported the following regarding Robeson County:

Steve Stone, chair of the Robeson County Board of Elections, said state investigators have requested information the county board kept on an unusual number of absentee ballot requests. Stone said county elections officials began keeping logs of who dropped off large numbers of registration forms and absentee ballot requests and later reported the their concerns to the state board in August.

Stone said county residents had reported that people were going door to door, telling voters that their registrations had been dropped and they needed to re-register. They were also asked to sign an absentee ballot request form, Stone said.

"It didn't feel right," he said.

About 1,200 requested absentee ballots were not returned this year, Stone said, an unusually high number. Bladen County also had an unusually high number of unreturned absentee ballots.

[https://www.washingtonpost.com/politics/nc-officials-investigating-irregularities-in-9th-congressional-district-election/2018/11/28/e5d77070-f338-11e8-aeaa-b85fd44449f5\\_story.html?utm\\_term=.30a215d7c57a](https://www.washingtonpost.com/politics/nc-officials-investigating-irregularities-in-9th-congressional-district-election/2018/11/28/e5d77070-f338-11e8-aeaa-b85fd44449f5_story.html?utm_term=.30a215d7c57a).

A review of the publicly available voter filer data confirms that serious irregularities and improprieties may have occurred. In the 2018 election, Bladen County had the highest percentage of absentee ballot requests in the entire state of North Carolina: 7.5% of all registered voters. In comparison, the next highest was Yancey County at 4.7%, and all but four counties fell below 3%. Among Bladen County absentee-by-mail votes cast during the 2018 Republican primary, Mark Harris received nearly **96 percent** of the vote against a sitting Member of Congress. See <http://www.wfae.org/post/harris-pittenger-race-unusual-bladen-county-absentee-mail-votes-poured-harris>. Dan McCready similarly received fewer absentee ballot votes than would be expected based on the composition of absentee voters. Meanwhile, rates of spoiled absentee ballots were high.

But more alarming than what public *does* know is what the public (including the undersigned requester) *does not* know. Since Tuesday, we have been told that an individual who has been the focus of the state's investigation worked for Mr. Harris' top consulting firm, during the primary and general elections. Does the State Board have relevant information in its possession on this question? The public deserves to know. Since Tuesday, we have been told that election officials in Bladen County leaked absentee ballot vote totals to the Republican Party in violation of NCGSA § 163A-1315 but withheld that information from the Democratic Party, thereby creating a decisive strategic advantage for one campaign over the other. If this is true, then the election results *are* tainted and the election itself unfair regardless of the number of fraudulent absentee ballots. Does the State Board have relevant information in its possession on this question? The public deserves to know. Since Tuesday, our review of a limited sample of absentee ballots in Bladen County confirms that four individuals each witnessed more than 30 absentee ballots and that at least four other individuals witnessed more than 10. Does the State Board have relevant information in its possession on this question? The public deserves to know. Multiple witnesses have said that suspected Republican agents came to their homes and may have tampered with their absentee ballots. Does the State Board have relevant information in its possession on this question? The public deserves to know.

Currently, there is a serious question as to whether "[i]rregularities or improprieties occurred to such an extent that they taint the results of the entire election and cast doubt on its fairness." The only way to resolve this question – and remove the taint that currently hangs over these election results and election results apparently going back years in Bladen County – is to conduct a public evidentiary hearing. This hearing should address the known and suspected irregularities and improprieties, in which witnesses including members of the Bladen County elections board are required under subpoena to answer whether early vote totals were leaked to Republican operatives. The hearing should also allow the State Board to present any relevant evidence currently in its possession and gather new evidence to fully put any illegal activity to rest. This hearing must take place before certification. Certifying this election on Friday, with these crucial questions remaining unanswered in the eyes of the public, would be a grave injustice and a permanent stain on this Board and a stain on North Carolina's national reputation for free and fair elections. See *Bush v. Gore*, 531 U.S. 98, 128-29 (2000) (Stevens, J., dissenting) ("Although we may never know with complete certainty the identity of the winner of this year's Presidential election, the identity of the loser is perfectly clear. It is the Nation's confidence in the judge as an impartial guardian of the rule of law.").

There is nothing Democrat or Republican in demanding light be shone on any illegal activity that may have gone on for years in Bladen County – nothing less than the people's faith in our democracy is at stake.

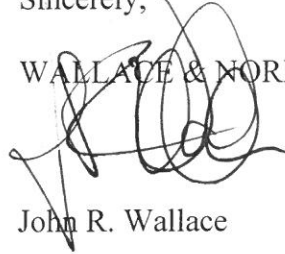
Attached please find five (5) affidavits attesting to some of the issues addressed herein.

Thank you for your attention to this matter.

With best regards, I remain

Sincerely,

WALLACE & NORDAN, LLP

A handwritten signature in black ink, appearing to be 'John R. Wallace', written over the printed name.

John R. Wallace

Cc Josh Lawson  
enclosures

**Affidavit of Datesha Montgomery**

STATE OF NORTH CAROLINA  
COUNTY OF BLADEN

The Undersigned, Datesha Montgomery, being duly sworn deposes and says:

1. I am over the age of 18 and a resident of the state of North Carolina. I have personal knowledge of the facts herein, and, if called as a witness, can testify completely thereto.
2. I suffer no legal disabilities and have personal knowledge of the facts set forth below.
3. On Wednesday evening about two weeks from today's date which is October 12, 2018, a young white lady came by and asked for my absentee ballot. She stated that she was collecting people's ballots in the area. She had just come from another lady's house. I filled out two names on the ballot, Hakeem Brown for Sheriff and Vince Rozier for board of education. She stated the others were not important. I gave her the ballot and she said she would finish it herself. I signed the ballot and she left. It was not sealed up at any time.

I declare that to the best of my knowledge and belief, the information herein is true, correct, and complete.

Executed this 29 day of October 2018

Datesha Montgomery  
Datesha Montgomery

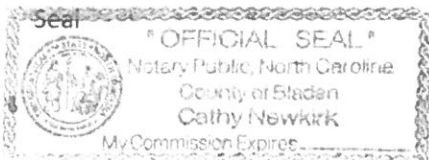
Michael Caspell  
Witness

State of NC

County of Bladen

Subscribed and sworn before me, I Cathy Newkirk. A Notary Public In and for the County and State above, do hereby declare, The Affiant,

Datesha Montgomery did appear personally before me and furnish to me adequate identification of proving their identity and stated that She (he/she) did sign this document of their own free will on this 29 day of October 2018.



Cathy Newkirk  
Notary Public

My Commission expires: 3-12-2022

**Affidavit of Emma L Shipman**

STATE OF NORTH CAROLINA  
COUNTY OF BLADEN

The Undersigned, Emma L. Shipman, being duly sworn deposes and says:

1. I am over the age of 18 and a resident of the state of North Carolina. I have personal knowledge of the facts herein, and, if called as a witness, can testify completely thereto.
2. I suffer no legal disabilities and have personal knowledge of the facts set forth below.
3. A young lady whom I positively identified by a choice of 4 pictures, came to my house the Sunday after Hurricane Florence and told me that she was assigned to this district to collect absentee ballots. I filled out the ballot while she waited outside and gave it to her when she came back. She took the ballot and put it in an envelope and never sealed it or asked me to sign it. Then she left. Because of the way she presented herself, I thought she was legitimate.

I declare that to the best of my knowledge and belief, the information herein is true, correct, and complete.

Executed this 29 day of October 2018

Emma L Shipman

Emma L. Shipman

Michael Cecrell

Witness

State of NC

County of Bladen

Subscribed and sworn before me, I Cathy Newkirk. A Notary Public In  
and for the County and State above, do hereby declare The Affiant,

Emma L. Shipman did appear personally before me and furnish  
to me adequate identification of proving their identity and stated that she (he/she) did sign this  
document of their own free will on this 29 day of October 2018.

Seal



Cathy Newkirk  
Notary Public

My Commission expires: 3-12-2022



STATE OF NORTH CAROLINA )  
 )  
COUNTY OF BLADEN )

AFFIDAVIT OF LUCY M. YOUNG

The undersigned, being first duly sworn, upon personal knowledge and belief, does say and depose as follows:

1. I am over the age of eighteen (18) years old, I am of sound mind and body, and I suffer no legal disabilities. If called as a witness, I can testify completely to the matters set forth herein.
2. I am a resident of Bladen County, North Carolina, and I am a registered voter of said county and state.
3. My contact information is as follows:

Address:

Telephone:

Email:

4. I allege and state as follows:

I am Miss Lucy Young I  
Made my 1st Early in Oct 2018, so I did  
receive an absentee Balloting but I did not ~~submit~~  
request for it.

Further affiant saith naught.

This the 28 day of November, 2018.

Lucy M. Young  
Signature

LUCY M. YOUNG  
Printed Name

[Signature]  
Witness to Signature

Trelena C. Brown  
Printed Name

STATE OF NORTH CAROLINA

COUNTY OF BLADEN

I, \_\_\_\_\_, a Notary Public, do hereby certify that \_\_\_\_\_  
personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the  
purposes therein described.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of November, 2018.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission expires: \_\_\_\_\_



# Absentee Application and Certificate

Fraudulently or Falsely completing this form is a Class 1 felony under Chapter 163 of the N.C. General Statutes

The following people are PROHIBITED from signing the Witnesses' Certification:

For all voters: a candidate, UNLESS the candidate is the voter's near relative;  
For voters who are patients or residents of a hospital, clinic, nursing home, or adult care home: (1) an owner, manager, director, or employee of that facility; (2) an individual who holds any federal, State, or local elective office; and (3) an individual who holds office in a State, congressional district, county or precinct political party or organization, or who is a campaign manager or treasurer for any candidate or political party.

LUCY MITCHELL YOUNG  
32 J AND L DR  
LAKE WACCAMAW, NC 28450  
DEM - BLADEN COUNTY



CIV-1055 Ballot: G002  
LUCY MITCHELL YOUNG  
PCT/MTD:P75/P75  
11/06/2018 - GENERAL

Board Approval Date

- ☐ **Second Primary Request or Runoff Request**  
In the event that a Second Primary (or Runoff Election) is called, I request that an absentee application and ballot be issued to me and mailed to me. (Check the box to receive eligible ballots.)
- ☐ **Annual Request for Illness/Disability**  
Due to continued or expected illness or disability, I request that this application be a request for absentee ballots for any other elections to be held this calendar year in which I am eligible to participate. (Check the box to receive eligible ballots.)

Signature of Voter (if applicable)  
Address where application and ballots should be mailed

## Voter's Certification (Required)

I am applying for an absentee ballot. I am a duly qualified voter, registered as an affiliate of the political party indicated on this application. All information represented on this application is correct. I am entitled to vote in this election. If I am an Unaffiliated voter voting in a primary election, I am voting in the party primary indicated on the attached label. If the party indicated is (UNA), I am voting a nonpartisan ballot. I further certify that I marked the enclosed ballot (or it was marked for me according to my instructions) in the presence of:

- ☐ two (2) witnesses who are at least 18 years of age and who are not disqualified by law to witness the casting of my absentee ballot (the witnesses must complete the Option 1 of the Witnesses' Certification)
- OR
- ☐ a notary public (the notary must complete Option 2 of the Witnesses' Certification)

Signature of Voter (Required) Date

## Voter Assistant Certification (if applicable)

I certify that: The voter requested my assistance. I assisted the voter by marking the ballot only according to the Voter's instruction, and/or I assisted the voter in completing the Absentee Application and Certificate. I assisted the voter only in the Voter's presence. I am the Voter's near relative or verifiable legal guardian, or I am providing assistance because a near relative or legal guardian is unavailable to assist the voter.

Name of Assistant Address of Assistant  
Signature of Assistant Date

## Witnesses' Certification

Option 1: Two (2) Witnesses  
(Required Unless a Notary Public is the Witness)

I certify that: I am at least 18 years old. I am not disqualified from witnessing the ballot, as described in the WARNING on the flap of this envelope. The Voter marked the enclosed ballot in my presence, or caused it to be marked in the Voter's presence according to his/her instruction. The Voter signed this Absentee Application and Certificate, or caused it to be signed. I respect the secrecy of the ballot and the Voter's privacy, unless I assisted the Voter at his/her request [complete Voter Assistant Certification section].

Witness #1	Witness #2
Signature (Required)	Signature (Required)
Street Address (Required)	Street Address (Required)
City, State and Zip (Required)	City, State and Zip (Required)
Date	Date

Option 2: Notary Public as Witness  
(Required Unless Two Witnesses Provided)

I certify that: on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Voter personally appeared before me, was positively identified, and in my presence, the Voter marked the enclosed ballot, or caused it to be marked in the Voter's presence according to his/her instruction. The Voter signed this Absentee Application and Certificate, caused it to be signed. I am at least 18 years old. I am not disqualified from witnessing the ballot described in the WARNING on the flap of this envelope. I respected the secrecy of the ballot and the privacy of the Voter, unless I assisted the Voter at his/her request [complete Voter Assistant Certification section].

NOTE: A notary may read, change, and file for witnessing and affixing a notarial seal to an absentee ballot application or certificate. (G.S. § 10B-3)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_  
Notary Public  
Commission Expiration Date \_\_\_\_\_

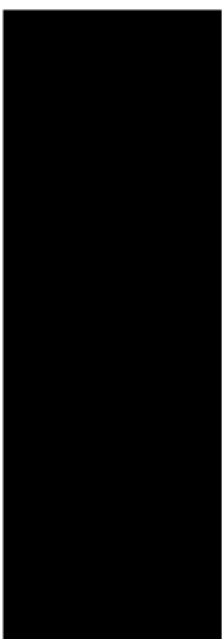
Bladen County  
301 S. Cypress  
PO Box 512  
Elizabethtown, NC 28337-0512

OFFICIAL  
ELECTION MAIL

Authorized by the U.S. Postal Service  
Charlotte R&DC MC 283  
WED 10 OCT 2018 PM

OFFICIAL ABSENTEE BALLOTING MATERIAL - FIRST CLASS MAIL

TO:



STATE OF NORTH CAROLINA )  
 )  
COUNTY OF BLADEN )

AFFIDAVIT OF AGNES WILLIS

The undersigned, being first duly sworn, upon personal knowledge and belief, does say and depose as follows:

1. I am over the age of eighteen (18) years old, I am of sound mind and body, and I suffer no legal disabilities. If called as a witness, I can testify completely to the matters set forth herein.
2. I am a resident of Bladen County, North Carolina, and I am a registered voter of said county and state.
3. My contact information is as follows:

Address:



Telephone:

Email:



4. I allege and state as follows: On Saturday, 11/3/18, the last day of early voting, the "tape" showing election results at the one-stop polling site was run after the polls closed, and was viewed by officials at the one-stop site who were not Judges. It is my understanding that this was improper.

Also, after the election, as part of my duties as an assistant, I fed ballots into the vote tabulation machines. The Absentee mail-in ballots were distinctive due to the folding creases and wear and tear present on the ballots, as well as coding written on the ballots. I noticed a very large number of ballots from the Bethel precinct.

Further affiant saith naught.

This the 29<sup>th</sup> day of November, 2018.

Agnes Willis  
Signature

Agnes Willis  
Printed Name

MM  
Witness to Signature

Matthew J. Dixon  
Printed Name



STATE OF NORTH CAROLINA

COUNTY OF BLADEN

I, Sandra Whitley, a Notary Public, do hereby certify that Agnes Willis personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein described.

Witness my hand and notarial seal, this the 29<sup>th</sup> day of November, 2018.

Sandra Whitley  
NOTARY PUBLIC

My Commission expires: 03-12-2023

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF BLADEN )

AFFIDAVIT OF DWIGHT SHEPPARD

The undersigned, being first duly sworn, upon personal knowledge and belief, does say and depose as follows:

1. I am over the age of eighteen (18) years old, I am of sound mind and body, and I suffer no legal disabilities. If called as a witness, I can testify completely to the matters set forth herein.
2. I am a resident of Bladen County, North Carolina, and I am a registered voter of said county and state.
3. My contact information is as follows:

Address:

Telephone:

Email:

4. I allege and state as follows:

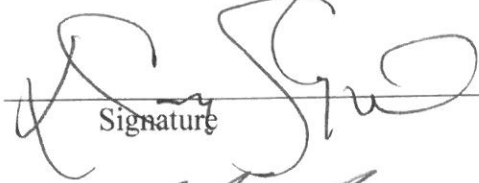
It is common knowledge that Leslie McCrae Dowless, Jr., was working for the Mark Harris Campaign in the Primary Election and General Election of 2018.

On election day, November 6, 2018, I was outside the Bethel Precinct polling site in Dublin, NC. I overheard a group of people talking, and someone said that Leslie McCrae Dowless, Jr., would receive a bonus in the amount of \$40,000.00 from the Mark Harris campaign if Mark Harris won the election over Dan McCready.


Also on election day, November 6, 2018, outside the Hollow Precinct polling site in Tarheel, NC, I overheard Tommy White of Bethel precinct say that he had received an absentee ballot in the mail which he had not ordered.

Further affiant saith naught.

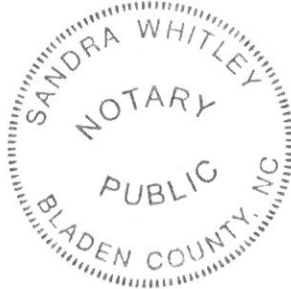
This the 29<sup>th</sup> day of November, 2018.

  
Signature

Dwight Sheppard  
Printed Name

  
Witness to Signature

Matthew J. Dixon  
Printed Name

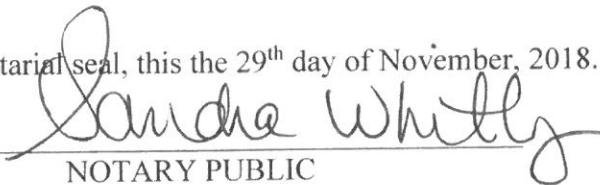


STATE OF NORTH CAROLINA

COUNTY OF BLADEN

I, Sandra Whitley, a Notary Public, do hereby certify that Agnes Willis personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein described.

Witness my hand and notarial seal, this the 29<sup>th</sup> day of November, 2018.

  
NOTARY PUBLIC

My Commission expires: 03-12-2023